

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JUN 22 2017

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BY
DEPUTY

UNITED STATES OF AMERICA § **SEALED**
v. § NO. 6:17CR 46
PORTICERENE BAXTER § JUDGE *RC/KNM*

INDICTMENT

THE UNITED STATES GRAND JURY CHARGES:

General Allegations

At all times relevant to this Indictment:

1. The Higher Education Act (HEA) is a federal law that governs the administration of federal higher education programs. Its purpose is to strengthen the educational resources of American colleges and universities and to provide financial assistance for students in postsecondary and higher education. It was originally passed by Congress in 1965 and signed into law by President Lyndon B. Johnson. HEA is generally scheduled for reauthorization every five years. In 2008, Congress passed the latest reauthorization of HEA called the Higher Education Opportunity Act.

2. Title IV of HEA governs the administration of the United States Federal Student Aid (FSA) programs.

3. Title IV FSA programs provide money for college to eligible students and families by partnering with postsecondary schools and financial institutions. The United States Department of Education (ED) administers the FSA programs and the disbursement

of funds under the FSA programs. The following is a brief description of each program applicable in this instance:

The Pell Grant Program provides ED grants to assist eligible needy students in meeting the costs of a post-secondary education. The ED program regulations specify eligibility requirements and application procedures for students. Pell Grants are considered “gift” aid and do not have to be repaid by the student recipient.

The William D. Ford Federal Direct Loan Programs (FDSLP) provide low-interest loans for eligible students to help cover the cost of higher education at a four-year college or university, community college, trade, career, or technical school. Eligible students borrow directly from the ED at participating schools.

4. ED program regulations specify eligibility requirements and application procedures for students. The Free Application for Federal Student Aid (FAFSA) contains factors affecting a student’s need for Federal financial assistance, such as income, assets, dependency, and household size. The FAFSA is submitted electronically or by mail. The ED processing center provides an Institutional Student Information Record (ISIR) to the educational institution which the student applicant plans to attend and a Student Aid Report to the student applicant. Based on the FAFSA, data provided on the ISIR, and other eligibility factors, the educational institution determines the amount of Federal Pell Grant and other Title IV funds that the student is eligible to receive.

5. Based on the FAFSA data, the ED processing center determines the student’s Expected Family Contribution (EFC), which is the amount that the ED determines the student’s family can contribute to the student’s education. The EFC is reflected on the ISIR. Based on the EFC and other eligibility factors, the school determines the student’s annual scheduled Pell Grant award. A student with a zero EFC will generally receive the

maximum Pell Grant Award. As the EFC increases, the student's eligibility for a Pell Grant decreases. The student must submit a FAFSA for every academic year he or she wishes to receive Title IV assistance.

6. To determine the student's "need" for additional Title IV assistance, the educational institution subtracts the student's EFC and other sources of aid from the student's Cost of Attendance (COA), which is the amount the school determines it will cost the student to attend the institution for one academic year. Institutions may also award other need-based Title IV assistance, such as subsidized loans.

7. Generally, a school will establish a "federal funds" bank account to receive Title IV funds from the ED. Based on funding requests from the institution, the ED electronically wires the funds to the school's federal funds account. A student's annual Pell Grant award must be divided into payment periods, which are generally the academic terms in the academic year.

8. The school makes payment to the student by applying a credit to the student's tuition account and transferring the funds from the federal funds account to the school's "operating account."

9. When a Title IV disbursement exceeds the student's tuition and other charges, the excess funds (credit balance) are disbursed to the student to meet other expenses of his or her COA, such as room and board, books and supplies, and transportation. This disbursement is known as a financial aid refund.

10. Institutions receive FAFSA/ISIR data electronically as the institution periodically downloads the information to its computer system. After the information

enters the institution's system, the student, if eligible, is processed for a Pell Grant. However, if the student is selected for the process called "verification" or does not meet other requirements at the school, such as maintaining satisfactory academic progress, the system will not award a Pell Grant until verification is performed and/or all eligibility requirements are met.

11. A FAFSA PIN is a 4-digit number that is used in combination with the applicant's Social Security Number, name, and date of birth to identify the individual as someone who has the right to access personal information on FSA websites, such as *FAFSA on the Web*. A PIN can be used each year to electronically apply for federal student aid and to access FSA records online. A PIN serves as an electronic signature and provides access to personal records.

12. The FSA ID took the place of the PIN on May 10, 2015. The FSA ID is a username and password combination that serves as a student's or parent's identifier to allow access to personal information in various ED systems. It may be used as a digital signature for some online forms.

COUNT 1

Violation: 20 U.S.C. § 1097(a) and
18 U.S.C. § 2
(Student Financial Aid Fraud and
Aiding and Abetting)

1. The General Allegations section of this Indictment is realleged and incorporated by reference as though fully set forth herein.

2. Beginning in or around January 2014, and continuing until in or around August 2014, in the Eastern District of Texas, and elsewhere, the defendant, **Porticerene Baxter**, aided and abetted by others, known and unknown, did knowingly and willfully misapply, steal, and obtain by fraud, false statement, and forgery, and attempt to misapply, steal, and obtain by fraud, false statement, and forgery funds, assets, and property provided and insured under Title 20, Chapter 28, Subchapter IV of the United States Code, specifically under the Pell Grant Program and the FDSLP, in an amount exceeding \$200, in violation of 20 U.S.C. § 1097(a) and 18 U.S.C. § 2.

A TRUE BILL



GRAND JURY FOREPERSON



6-22-2017

Date

BRIT FEATHERSTON
ACTING UNITED STATES ATTORNEY



NATHANIEL C. KUMMERFELD
ASSISTANT UNITED STATES ATTORNEY

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

UNITED STATES OF AMERICA §
§
§
v. § NO. 6:17CR_____
§ JUDGE _____
§
PORTICERENE BAXTER §

NOTICE OF PENALTY

COUNT 1

VIOLATION: 20 U.S.C. § 1097(a) and 18 U.S.C. § 2
Student Financial Aid Fraud and Aiding and Abetting

PENALTY: Imprisonment of not more than 5 years; a fine not to exceed \$250,000, or twice any pecuniary gain to the defendant or loss to the victim(s); and not more than 3 years supervised release.

SPECIAL ASSESSMENT: \$100.00